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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,372	06/08/2001	Robert M. Koch	80002	8986

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Office Of Counsel
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EXAMINER

LUK, EMMANUEL S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,372

Applicant(s)

KOCH ET AL.

Examiner

Emmanuel S. Luk

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 08 June 2001.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 9-14 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s) _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to process of making an object, classified in class 264, subclass 401.
 - II. Claims 9-14, drawn to an apparatus for making an object, classified in class 425, subclass 174.2.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be used to practice another and materially different apparatus such as an apparatus having a single acoustic transducer, or an apparatus including a mixer for mixing reinforcing material with the medium.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with James M Kasischke (by Examiner Tentoni, AU 1732) on June 3, 2003, a provisional election was made with traverse to prosecute the invention of Group II, claims 9-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-8 are withdrawn from further

consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicants are reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance to 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al in view of Ueno et al and Bishop et al.

Jacobs teaches an apparatus having a fluid medium (107), support means (70), that is movable away via translational means (38), stimulation means provided for altering the physical state (Col. 1, lines 33-62), and actuator to induce vibrations (90), control means for the actuator via computer (Col. 19, lines 31-34) and control means for the translational means (Col. 19, lines 41-51).

Jacobs et al fails to teach at least two acoustic transducers in the side walls, an object controller, and solid reinforcing materials consisting of a fibrous material, nonfibrous material, or a mixture of fibrous and nonfibrous material.

Ueno teaches a reinforcing agent added to resin for curing and the material that includes either an inorganic solid particle or whisker (Col. 3, lines 52-54) that constitutes as the fibrous material.

Bishop et al teaches the use of transducers (20) that is controlled by a computer (24) that aligns fibrous elements (12) in a mixture (10). The introduction of the reinforcing agent taught by Ueno would be strengthened by the use of the transducers.

In regards to the transducers in the side wall, Jacobs teaches the use of actuators for producing vibrations which has the same effect as the acoustic transducers. Bishop et al teaches the positioning of the transducers into the side walls (Fig. 5). Both Jacobs and Bishop teaches the use of controllers for the positioning of the support and the actuators or transducers. It would have been obvious to one of ordinary skill in the art to recognize that the controllers are the object controllers for controlling that would control the position of the support means in relation to the transducers.

In regards to the number of acoustic transducers, the number of transducers is merely a plurality of parts and serves to only multiply the effect of the alignment process. *The mere duplication of parts has no patentable significance unless a new and unexpected result is produced.* In re Harza, 124 USPQ 378 (CCPA 1960).

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It would have been obvious to one of ordinary skill in the art to modify Jacobs with the introduction of fibrous reinforcing material as taught by Ueno because it provides and improved service life (Col. 2, lines 21-24) and transducers as taught by Bishop et al because it allows for the alignment of the fibers to increase the strength.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Manners et al, Serbin et al and Takano.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.
June 16, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700